



City Council Chambers  
3300 Capitol Avenue  
Fremont, California

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Elisa Tierney, Redevelopment Director

## City Council Agenda and Report [Redevelopment Agency of Fremont]

### General Order of Business

1. Preliminary
  - Call to Order
  - Salute to the Flag
  - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
  - Public Hearings
  - Appeals
  - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

### Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

### Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



## **Addressing the Council**

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

## **Oral Communications**

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

**To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.**

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## **Information**

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website ([www.Fremont.gov](http://www.Fremont.gov)).

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## **Availability of Public Records**

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Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk  
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3300 Capitol Avenue, Bldg. A  
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*Your interest in the conduct of your City's business is appreciated.*

**AGENDA**  
**FREMONT CITY COUNCIL REGULAR MEETING**  
**NOVEMBER 2, 2010**  
**COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A**  
**7:00 P.M.**

**1. PRELIMINARY**

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

**2. CONSENT CALENDAR**

*Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.*

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances  
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – for the Special and Regular Meetings of June 8, 2010*

**3. CEREMONIAL ITEMS**

- 3.1 Resolution: Honoring DSL Printing for Being Certified as a Bay Area Green Business in the City of Fremont
- 3.2 Resolution: Honoring Patriot Memory for Being Certified as a Bay Area Green Business in the City of Fremont
- 3.3 Resolution: Honoring Write Place for Being Certified as a Bay Area Green Business in the City of Fremont
- 3.4 Resolution: Honoring Best Graphic Image for Being Recertified as a Bay Area Green Business in the City of Fremont

- 3.5 Resolution: Honoring REI for Being Recertified as a Bay Area Green Business in the City of Fremont
- 3.6 Resolution: Recognizing Eden Housing for Leveraging Federal Funds into Fremont for Energy Efficiency in Affordable Housing
- 3.7 General Plan Vision Book Presentation to City Council

#### **4. PUBLIC COMMUNICATIONS**

- 4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

#### **5. SCHEDULED ITEMS**

- 5.1 PACIFIC COMMONS PLANNING AREA 5 – SOUTH OF CURIE STREET (PLN2010-00221)  
Public Hearing (Published Notice) to Consider the Planning Commission's Recommendation of an Ordinance For a Major Amendment to Planned District P-2000-214, an Ordinance to Amend the Pacific Commons Development Agreement, a Finding for Concept Site Plan Approval, Vesting Tentative Tract Map 8049, and a Preliminary Grading Plan, to Allow Development of a New 27-acre Retail/Entertainment District For Planning Area 5 of Pacific Commons

**Contact Person:**

Name:	Clifford Nguyen	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4769	510-494-4527
E-Mail:	cnguyen@fremont.gov	jschwob@fremont.gov

**RECOMMENDATION:**

1. Hold public hearing.
2. Adopt a resolution to:
  - a) Certify the 2010 Supplement to the Final Environmental Impact Report for Pacific Commons as having been prepared in compliance with the requirements of CEQA and find that it reflects the independent judgment of the City, and
  - b) Find that changes to the project have been incorporated to avoid and lessen the significant effects of the project and additional changes or alternatives to the project are not feasible, and adopt the Mitigation Monitoring and Reporting Program identified as "Exhibit "B", and
  - c) Find that project's economic and social benefits outweigh its potentially significant environmental impacts.
3. Find that the proposed project is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
4. Waive full reading and introduce an Ordinance approving the Planned District Major Amendment as shown in Exhibit "C" (2010 Revised Supplement B, Pacific Commons Master Plan), based on findings and subject to conditions in Exhibit "H."
5. Approve the Concept Site Plan for Pacific Commons Planning Area 5 as shown in Exhibit "E", based on findings and conditions in Exhibit "H."
6. Find that the proposed subdivision as shown in Exhibit "F", Vesting Tentative Tract Map 8049, is consistent with the goals, policies and objectives of the City of Fremont's General Plan and allow the subdivision subject to conditions set forth in Exhibit "H". Government Code Section 66474 provides that a tentative map application must be denied if certain specified findings are made. None of those findings can be made in this instance as set forth in Exhibit "H".
7. Approve the Preliminary Grading Plan as shown in Exhibit "G", based on findings and conditions in Exhibit "H."
8. Find the Amendment to the Pacific Commons Development Agreement is in compliance with the applicable requirements as set forth in the Fremont Municipal Code. Waive full reading and introduce an Ordinance for a Third Amendment to the Development Agreement substantially set forth in Exhibit "D" for that purpose of a) extending the term of the Agreement for five years to October 17, 2019; b), modifying the location and aggregate size of two drive-through establishment for Pacific Commons; and, c), modifying the timing and process for commencement of the Municipal Parcel Access Improvements for and within Automall Parkway, as specified in the Third Amendment.

**6. REPORT FROM CITY ATTORNEY**

**6.1 Report Out from Closed Session of Any Final Action**

## **7. OTHER BUSINESS**

### **7.1 CONSIDER ADOPTION OF TWO RESOLUTIONS TO MAKING THE CITY OF FREMONT A “LET’S MOVE! CITY” AND A “HEALTHY EATING ACTIVE LIVING (HEAL)” CITY**

Consider 1) Adopting a Resolution to Make the City of Fremont a Let’s Move! City and 2) Adopting a Resolution to Make the City of Fremont a Healthy Eating Active Living (HEAL) City

#### **Contact Person:**

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#### **RECOMMENDATION:**

1. Adopt a Resolution to Make the City of Fremont a Let’s Move! City.
2. Adopt a Resolution to Make the City of Fremont a HEAL City.

## **8. COUNCIL COMMUNICATIONS**

### **8.1 Council Referrals**

8.1.1 MAYOR WASSERMAN REFERRAL: Reappointment to the Alameda County Mosquito Abatement District

### **8.2 Oral Reports on Meetings and Events**

## **9. ADJOURNMENT**



REPORT SECTION  
FREMONT CITY COUNCIL  
REGULAR MEETING

NOVEMBER 2, 2010





## 5.1 PACIFIC COMMONS PLANNING AREA 5 – SOUTH OF CURIE STREET (PLN2010-00221)

**Public Hearing (Published Notice) to Consider the Planning Commission’s Recommendation of an Ordinance For a Major Amendment to Planned District P-2000-214, an Ordinance to Amend the Pacific Commons Development Agreement, a Finding for Concept Site Plan Approval, Vesting Tentative Tract Map 8049, and a Preliminary Grading Plan, to Allow Development of a New 27-acre Retail/Entertainment District For Planning Area 5 of Pacific Commons**

### **Contact Person:**

Name:	Clifford Nguyen	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4769	510-494-4527
E-Mail:	cnguyen@fremont.gov	jschwob@fremont.gov

**Executive Summary:** The applicant, Catellus Development Group, requests several land use entitlement approvals to facilitate development of 27 acres of currently undeveloped land (“Planning Area 5”) within the overall Pacific Commons Planned District. The proposed development consists of a new 27-acre retail/entertainment district of approximately 321,000 square feet, located generally behind Costco and Lowe’s. The retail/entertainment district would contain one large retailer of approximately 140,000 square feet at its westerly end and a large movie theater of approximately 60,000 square feet with 3,005 seats at its easterly end. The two anchors are spatially separated but are strategically designed to be connected by a walkable, enhanced pedestrian-oriented promenade aligned with several smaller commercial buildings. Pacific Commons Boulevard will extend through the center of the site as an “urban street” with angled parking and wide sidewalks.

The Planning Commission recommends approval of the proposed project along with two additional suggestions: 1) the City Council consider requiring the applicant to begin implementation of the Pacific Commons Transportation Demand Management (TDM) program and construct a transit hub within Planning Area 5, concurrent with the development of the project; and, 2) that Planning Area 5 incorporate a defined community space or plaza along Pacific Commons Boulevard or within the promenade designed for interaction and assembly of people for activities. These recommendations are summarized at the end of this report under “Public Notice and Comment.”

Staff does not recommend requiring implementation of the TDM and construction of a transit hub at this time as there are minimal peak hour employment trips generated by existing retail uses at Pacific Commons and the future retail uses proposed as part of this project. The applicant has the continuing obligation to participate in TDM measures implemented in the future for the Pacific Commons Planned District. The applicant has agreed to work with staff on providing an enhanced plaza area along Pacific Commons Boulevard or within the central promenade. Several conditions are recommended to ensure that the suggestions made by the Planning Commission are addressed.

**BACKGROUND:** In 1987, the original development plan for the 877-acre master planned area now known as Pacific Commons was originally contemplated. The land was not developed, and in 1996 a

major amendment was prepared for the Pacific Commons Planned District Master Plan to allow for the development of 8.3 million square feet of development for research and development uses on an approximately 662-acre portion of the land, with a set-aside of 160 acres of wetland preserve within the overall 877 acre area.

In 1998, the City approved the Pacific Commons Mitigation Monitoring & Reporting Plan (MMRP) in furtherance of the conditions for the 1996 approvals, which largely included traffic and wetlands impact mitigation measures.

In 2000, subsequent to the 1996 approvals, in fulfillment of the MMRP, Federal authorities required wetland preservation and mitigation of 390 acres rather than 160 acres. Because of this major change to the developable area, a Major Amendment to the Planned District was proposed and approved to modify and refine the Pacific Commons development project to include the Federal wetland preservation requirement and mitigation, which were adopted under an additional Supplemental Draft and Final Environmental Impact Report (SEIR). The approval of that Major Amendment resulted in a significant reduction in the portion of the Pacific Commons development area from 662 acres to 373 acres, and the compaction of allowable retail and industrial office uses totaling 8.3 million square feet concentrated on the north side of the Master Plan Area and a set-aside of the wetland preserve to the south.

In 2003, the current Pacific Commons entitlement (Table 1) was finalized with an addendum to the 2000 Supplemental EIR for the use of Catellus Areas 3 and 4 as retail rather than office, with a reduction of the total development entitlement to 6.8 million square feet. As a result of the 2003 amendment, 863,000 square feet of retail development and supporting infrastructure for Pacific Commons has been constructed since 2003. Table 1 identifies the status of development areas of the Pacific Commons. The wildlife refuge and wetland dedication and other offsite improvements for construction of Cushing Boulevard, stormwater treatment facility, and habitat restoration, and on-going monitoring have been completed or are in progress.

<b>Table 1 Pacific Commons Development Plan 2003</b>				
	Acres	Building (SF)	Current Approved Use	Status
<b>Catellus Owned Land in Pacific Commons</b>				
Catellus Planning Areas 1, 2,3 and 4 – Existing Major Retail District	79	863,000	Retail	Built
Catellus Planning Area 5*	27	(1,300,000)	Office/R&D	Vacant
Catellus Planning Area 10	23	160,000	Automall and Office	2/3 Built
Existing Nobel Dr Area 9	76	1,122,485	Office/R&D	Built
<b>Cisco Owned Land within Pacific Commons</b>				
Cisco Planning Area 5, 6, 7 and 8	133	(3,398,000)	Office/R&D	Vacant

*\*Proposed Amendment from 1,300,000 square feet of allowable Office/R&D use to 321,000 Square Feet of Retail/Entertainment Use.*

In October 2010, the Planning Commission recommended approval of the project. A summary of the hearing is included at the end of this report under “Public Notice and Comment.”

**PROPOSED PROJECT:** The following project elements are before the City Council for consideration:

1. A Planned District Major Amendment (Exhibit “C”) based on findings specified in Section 8-21814 of the Fremont Municipal Code specifically for the following:
  - a. Allow for the creation of a 321,000-square foot retail/entertainment district within Planning Area 5 consistent with the Concept Site Plan, Exhibit “E”. The new retail/entertainment district includes a 140,000-square foot large retail anchor; a 60,000 square foot movie theater with 3,005 seats; and, several small- to mid-size inline tenants. The development of Planning Area 5, list of permitted uses, and building standards governed by an amendment to the Pacific Commons Planned District Master Plan Standards and Guidelines, Supplement B.
  - b. Modify the Pacific Commons’ circulation plan to create an urban internal public street for a segment of Pacific Commons Boulevard between Curie Street and the future completion Bunche Drive. The new urban street for the roadway segment within Planning Area 5 would replace the “Central Commons” where a one-way street loop around an oval open space was previously approved. The revised circulation plan would also modify the pedestrian promenade linking proposed retail storefronts to the public realm streetscape within and surrounding Planning Area 5.
  - c. Allow for a zero building setback specific for Planning Area 5 for buildings along Pacific Commons Boulevard to maximize spatial enclosure and create a pedestrian-oriented and intimate scale along the Pacific Commons Boulevard urban street.
  - d. Allow for a parking reduction in accordance FMC Section 8-22003 based on the proposed land uses and their different peak parking characteristics for Planning Area 5.
2. An amendment to the Pacific Commons Development Agreement to extend its term from 2014 to 2019, including modifications to other provisions related to Pacific Commons Boulevard, location of permitted drive-through restaurants, and the future extension of Auto Mall Parkway, in accordance with the laws that establish procedures and requirements for amendment of a development agreement pursuant to State law (§65864 *et seq.*) and Chapter 7, Title 8 of the Fremont Municipal Code (FMC).
3. A Vesting Tentative Tract Map (Exhibit “F”) based on findings in FMC Section 8-1418 to allow the existing 27 acre site to be subdivided into 11 lots.
4. A Preliminary Grading Plan (Exhibit “G”) based on findings specified in FMC Section 8-4109 to allow approximately 97,000 cubic yards of total grading (cut and fill).

The applicant’s Planned District Amendment justification statement is enclosed (Informational 1).

## **DISCUSSION/ANALYSIS:**

### ***General Plan Conformance***

The existing General Plan land use designation for the project site is Restricted Industrial (Commercial/Industrial Overlay). The proposed project implements the General Plan by incorporating

important economic, social, environmental and planning goals of the City that are recognized by the General Plan for the Restricted Industrial District with a Commercial/Industrial Overlay. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

Policy LU3.2 (Allowed Uses, Restricted Industrial):

*“...large scale, regional retail and amusement uses are permitted as a conditional use on sites with convenient freeway access and where the proposed use is compatible with the purpose of the industrial area.”*

Policy LU 3.3:

*“Commercial uses providing necessary services for industrial uses and workers and large-scale regional retail and amusement uses may be allowed in industrially designated areas, with the exception of “Light Industrial.”...*

Analysis: The allowable General Plan uses for the Restricted Industrial land use designation are sufficiently broad to include the proposed uses. This designation permits regional retail uses on sites with convenient freeway access and where the proposed uses are compatible with the purpose of the industrial area. The proposed development is compatible with the purpose of the industrial area within or adjacent to the Pacific Commons Planned District development. The envisioned retail/entertainment district for Planning Area 5 is a continuation of the Major Retail District that exists at Pacific Commons and would incorporate linkages to the established major retail district developed within Planning Areas 1 through 4. The addition of retail-oriented uses in Planning Area 5 will also provide for needed and convenient amenities to the community and surrounding businesses. Therefore the proposed regional retail uses are appropriate for the project site under this General Plan land use designation. The amended Planned District Development Standards and Guidelines - Supplement B for the Major Retail District would require superior architecture, site planning, and landscape treatment for Planning Area 5.

### **Zoning Regulations**

**Parking Analysis:** The project provides a total of 1,743 parking spaces with 1,704 parking spaces of on-site parking and 39 spaces within the public “urban street” segment of Pacific Commons Boulevard for Planning Area 5). The proposed parking program is 152 spaces short of the general minimum parking standard requirement of 1,895 parking spaces.

<i><b>Function</b></i>	<i><b>Parking Ratio/Standard</b></i>	<i><b>Square Feet (SF)/Seats</b></i>	<i><b>Required Spaces</b></i>
<b>Shopping Center</b>	1 space per 250 square feet	259,716	1,039
<b>Theater</b>	1 space per 3.5 Seats	3,005 Seats	856
<b>Total Required Parking</b>			1,895 spaces
<b>Proposed Parking</b>			1,743 spaces

Staff finds that while the project does not completely meet the City's general parking standards, sufficient off-street and on-street parking is available. Under the parking provisions of Section 8-22003 of the Zoning Ordinance (Article 20), the approving body may reduce the parking requirement for a

particular project located in a Commercial/Industrial designated district if it finds that based upon a finding that the exact nature of the land use, the required parking may be decreased. Staff recommends a decrease in the required parking as further analyzed below: A finding is included in Exhibit “H” pursuant to FMC Section 8-22522(b).

A parking study was prepared by a professional traffic/parking consultant, TJKM, utilizing the Urban Land Institute’s (ULI), Shared Parking (2nd Edition, 2005) methodology. Based on the diverse nature of the proposed land uses and their different peak parking characteristics during a typical day as analyzed by the parking analysis, the peak parking demand would be at 89 percent capacity (or 1,558 spaces). This is expected to occur on weekends at 3 p.m. in late December. During weekdays at 2 p.m. 78 percent of the capacity (or 1,376 spaces) would be utilized. During peak holiday season the parking will be fully utilized. The projected 89% utilization reaches that practical full use of parking supply when accounting circulation and turnover of spaces. Given the proposed parking supply of 1,743 spaces, and an additional 27 on-street parking spaces along the future Bunche Drive and existing Curie Street, staff believes that 152 parking-space deficit is not significant and that adequate parking is provided. The parking study is enclosed as Informational “2”.

### **Design Analysis**

**Site Planning:** The 27-acre Planning Area 5 site includes 321,000 square feet of commercial/retail uses. A large freestanding discount retail store anchor of approximately 140,000 square feet is proposed at the eastern end, and a movie theater of approximately 60,000 square feet which serves as a second anchor is proposed at the western end. General medium- to small- size retail stores and restaurants, including one drive-through eating establishment, would be built for the remaining 121,000 square feet located between the anchor building sites. The drive-thru restaurant is a proposed relocation of a previously allowed drive-thru in Pacific Commons Planned District for either Area 2 or 3. The shopping center preliminary design is one and two-story elements with the tallest structure being the movie theater at a conceptual building height of approximately 50 feet. Supplement B of the Pacific Commons Design Guidelines includes modifications to address architectural and site design requirements consistent with the proposed commercial use of the site and complementary to the existing retail development standards of Pacific Commons Areas 1 through 4.

Planning Area 5 is intended to provide a distinctive entertainment- and activity-oriented district with pedestrian spaces and an “urban street” feel along Pacific Commons Boulevard. Supporting the large retail anchor and theater will be an array of restaurants, retail shops, and a variety of other complimentary services. Bridging the two primary anchors of a large theater to the west and a large retail anchor to the east is a strong pedestrian promenade with plaza spaces complemented by pedestrian-scale buildings which align its path. The urban street design of Pacific Commons Boulevard also amplifies the pedestrian experience with the inclusion of wide sidewalks (12’ to 15’) allowing for sidewalk dining opportunities through the heart of Planning Area 5. A complete description of the site design is provided in the proposed revision to Supplement B of the Pacific Common Master Plan.

**Architecture:** The architectural design of buildings within Planning Area 5 will be in accordance with the proposed revision to Supplement B of the Pacific Common Master Plan (Enclosed as Exhibit “C”). A comprehensive set of standards and guidelines are provided to effectuate a superior design quality for the district. These standards and guidelines address various building design criteria predicated on the location and size of each tenant space. Staff recommends Planning Commission approval of building

architecture for the first two buildings and the drive-through building (P1) constructed adjacent to Pacific Commons Blvd (PCB). Staff believes that the design of the first two buildings would likely influence the rest of the project's design character along PCB and thus are critical for public review. The drive-through is a unique use and in a prominent location that should also be subject to a public hearing review for the design, not the use itself. A condition is recommended to implement this particular review.

**Open Space/Landscape Design:** A conceptual landscape planting scheme is included in the Concept Site Plan, Exhibit "F". The landscape plans include hatched areas of "landscape zones" and their descriptions, a tree plan, and a plant list. Information shown is consistent with Pacific Commons planting schemes for Planning Areas 1 through 4. However, due to new regulations, such as the State's new Water Efficient Landscape Ordinance (WELO) and City Council-approved Bay Friendly practices for private development, some of the planting guidelines referenced in the Planned District Development Standards and Guidelines are now restricted. Specifically this includes, but is not limited to, planting (including turf) in areas narrower than 8' irrigated with overhead spray and overhead irrigation within 24" of any non-permeable surface. Staff will work with the applicant on the final tree and plant palette which will allow the planting plan to comply with the new WELO regulations and Bay Friendly practices. Other details, such as planters, paving, railings, bollards, etc., will also be worked out during building permit review. These elements, including landscape, hardscape, and site furnishings for Planning Area 5 will be reviewed to be consistent in nature and quality with the existing Major Retail District in Pacific Commons.

**Sculpture Plaza at Christy/Curie Street:** The proposed sculpture at the corner of Christy and Curie Streets is consistent in character with the existing sculptures throughout Pacific Commons. However, a refinement to the color treatment of the sculpture may be needed to ensure compatibility with the dark bronze color of the other existing sculptures and to accentuate it as somehow different to capture its "special character" or significance of the larger centerpiece. The planting area leading up to the sculpture plaza is wider than originally planned and is sufficient in providing the parking lot a buffer for screen planting and additional character planting. The palm trees and ancillary planting surrounding the sculpture will be designed to be large enough to provide an appropriate backdrop in order to give the sculpture ample space to be seen and to have a "complete" presence.

The plaza's final paving material, texture, pattern, and color will be approved during the building/improvement plan review process. The flanking walls should be designed to frame the sculpture plaza and not be imposing, with no signage atop. Lighting should also be consistent with existing sculptures throughout Pacific Commons and the roadways adjacent to the sculpture. Staff will continue to work with the applicant on this feature.

**Transit Hub:** The original 2000 Planned District approval contemplated development of a concentrated bus and shuttle transit center on the subject site to serve large employers. A particular location was not included in the Planned District; it was assumed it would be selected as the project developed. Bus transit access will continue to occur via public streets but the transit center will not be constructed within Planning Area 5 as the site will not serve major employment users. A condition is recommended to require the applicant to participate in a future transportation hub or shuttle program at such time it is necessary as part of the Pacific Commons Transit Demand Management program.

**Vesting Tentative Tract Map:** Vesting Tentative Tract Map 8049 proposes 11 lots. The smallest lot is approximately 0.42 acres and the largest approximately 10.02 acres in size. Access to the project will be gained via the surrounding roadway network of Christy Street, Curie Street, Pacific Commons Boulevard, Boscell Road and Bunche Drive. At the time of final map submittal for a specified grouping of lots, the site plan for that lot grouping will be reviewed by staff to ensure that the proposed final map is consistent with the intent of the planned district conditions and the Development Standards and Guidelines. Final map submittals will also trigger a determination by the City Engineer as to the required improvements needed to serve and access the lots proposed by the final map.

**Access and Circulation:** Planning Area 5 is bounded by Curie Street, Christy Street and Boscell Road. Pacific Commons Boulevard currently terminates at Curie Street, just north of the project site. To the south, Bunche Drive currently terminates just west of Boscell Road. The applicant proposes to install the public street improvements in phases to run concurrent with the development of each grouping of lots as proposed through the Planned District Major Amendment and Vesting Tentative Tract Map 8049.

The following outlines the street right-of-way dedication and improvement requirements of this project.

#### **Bunche Drive**

Bunche Drive currently terminates just west of Boscell Road, south of Planning Area 5. West of Boscell Road, Bunche Drive is a two-lane undivided collector road with bike lanes on both sides and a median left turn lane. The project shall extend Bunche Drive from its current terminus at Boscell Road to the existing Christy Street/Brandin Court intersection. The right-of-way width of the Boscell Road extension shall be seventy two feet (72') to meet current standard street geometrics for a two-lane commercial/industrial collector road. The applicant will dedicate 37.7 feet of the required right-of way for Bunche Drive. The remaining 34.3 feet of right-of-way will be dedicated by the adjacent parcel owner (currently Cisco). The developer has indicated that the affected property owner acknowledges improvements are needed to complete Bunche Drive. However, this is no guarantee that the affected adjacent parcel owner will dedicate land to allow for the complete construction of Bunche Drive. If the applicant fails to acquire the remaining 34.3 feet of right-of-way from the adjacent parcel owner after the project is approved, the City must acquire it for the applicant to construct Bunche Drive. The applicant would be required to pay for all acquisition costs.

The curb-to-curb width between Christy Street and Pacific Commons Boulevard shall be forty six feet (46') and include two 12' travel lanes, a 5' bike lane in each direction and a 12' two-way-left-turn lane. Between Pacific Commons Boulevard and Boscell Road, the curb-to-curb width shall be increased to fifty four feet (54') to provide an additional 8' parallel parking lane along the north side.

The project shall also install a 7' (inclusive of curb width) landscape strip and a 6' sidewalk along the entire south side of the Bunche Drive extension and on the north side between Christy Street and Pacific Commons Boulevard. On the north side of the Bunche Drive extension, between Pacific Commons Boulevard and Boscell Road, the project shall install a 5' (inclusive of curb width) monolithic sidewalk.

#### **Pacific Commons Boulevard**

Pacific Commons Boulevard currently terminates at Curie Street, north of Planning Area 5. North of Curie Street, Pacific Commons Boulevard is a two-lane divided commercial road with left turn lanes. On July 22, 2003, Council approved a Planned District Major Amendment (PLN2003-00298) for the Pacific

Commons Development (P-2000-214) and Vesting Tentative Tract Map 7458. At that time, Pacific Commons Boulevard south of Curie Street through Planning Area 5 was planned as a divided roadway with a 90-foot wide common open space in the middle of the street to support future office and R&D uses.

The project will extend Pacific Commons Boulevard from its current terminus at Curie Street to the future Bunche Drive extension. As part of the project, a new traffic signal will be installed at the intersection of Pacific Commons Boulevard and Curie Street. Pacific Commons Boulevard will remain as the project's focal point; however, the applicant now proposes to construct the Pacific Commons Boulevard extension through Planning Area 5 using design characteristics typical of a contemporary "urban street," with diagonal parking and sidewalks along either side to support the proposed retail development within Planning Area 5.

In April 2006, City Council approved the City of Fremont Standard Details, as amended. The Standard Details establishes standard street geometrics for different roadway classifications. The applicant is requesting variations from these standards. The standards and variations are discussed below.

Standard Street Geometrics for an Urban Street with 45-degree parking: A total right-of-way width of ninety-eight feet (98'), which includes two 16-foot travel lanes and a 19-foot 45-degree diagonal parking aisle and 14-foot sidewalk on either side.

Analysis: The proposed right-of-way width on Pacific Commons Boulevard is eighty-five feet (85'). A maximum curb width of sixty-one feet (61') will include two 13.5' travel lanes with 17' deep 40-degree diagonal parking on both sides. The minimum sidewalk width on either side of Pacific Commons Boulevard will be 12'. The applicant also proposes the use of a "saw-tooth" curb line adjacent to the diagonal parking to maximize available streetscape and landscape area. Staff supports the proposed cross section of Pacific Commons Boulevard. Use of "shallower" diagonal parking (40-degrees versus 45-degrees) will enable both narrower parking aisles and adjacent travel lanes to be used. Use of a "saw-tooth" curb line adjacent to the diagonal parking will provide additional sidewalk area, allowing a minimum sidewalk width of 12 feet. Narrowing the cross section of Pacific Commons Boulevard will also encourage lower vehicle speeds through Planning Area 5, promoting a more "pedestrian-friendly" environment.

The landscape and trees proposed along Pacific Commons Boulevard have not been finalized and will be reviewed by staff during the street improvement plan phase. Trees shown in the triangular-shaped planting areas are proposed as the large stature tree, *Platanus acerifolia* 'Yarwood', or London Plane Tree. Staff recommends that a medium stature tree may be more appropriate given the limited space and potential conflicts with the buildings, building awnings, and other building appurtenances. Staff recommends a condition that requires the applicant to continue working with staff on the final street tree selection.

### **Christy Street**

Christy Street fronting the project is a two-lane undivided collector road with bike lanes on both sides. Existing improvements along the project's Christy Street frontage include curb and gutter only. The project will extend the planned multi-use trail along the Christy Street project frontage per the Pacific



Commons Trail design guidelines. The project will also construct a new raised landscaped median on Christy Street between Curie Street and Bunche Drive.

### **Curie Street**

Curie Street fronting the project is a two-lane undivided collector road with bike lanes on both sides. Full frontage improvements along the project's Curie Street frontage were constructed with a previous phase of Pacific Commons.

### **Boscell Road**

Boscell Road fronting the project is a four-lane divided collector road with bike lanes on both sides. Full frontage improvements along the project's Boscell Road frontage were constructed with a previous phase of Pacific Commons.

Easements: Public Service Easements and Landscape Easements exist along the Boscell Road, Curie Street and Christy Street frontages of the project. There are also Gateway Easements located at the following locations:

- Northeast corner of Boscell Road and Bunche Drive
- Southeast corner of Boscell Road and Curie Street
- Northwest corner of Curie Street and Christy Street
- At the southern leg of the Curie Street and Pacific Commons Boulevard intersection

The project proposes to modify the Gateway Easements located at the Curie Street/Christy Street and Curie Street/Pacific Commons Boulevard intersections. The project, as proposed, does not conflict with remaining existing easements. New Public Service Easements and Landscape Easements will be dedicated along the project's Bunche Drive frontage.

Grading & Drainage: The project site is currently vacant. Rough grading of the parcel was previously performed as part of the development of Planning Areas 1 through 4. The topography of the site is characterized as low-lying flat terrain. The lay of the land slopes from the easterly limits adjacent to Christy Street at 20 feet above mean sea level (AMSL), to the westerly limits adjacent to Boscell Road at elevation 17 feet AMSL. The existing topography of the site also includes an 18,000 square yard stockpile near the southeastern corner of the parcel with a high elevation of 30 feet AMSL.

Grading for the project will include removal of the stockpile, constructing foundation pads for the commercial buildings, contouring the new parking areas and drive aisles, installing multiple bioretention swales for storm water treatment and construction of the Pacific Commons Boulevard and Bunche Drive extensions. The applicant's estimates of the earthwork quantities for the preliminary grading plan are 61,685 cubic yards (CY) and 35,275 CY of cut and fill, respectively, for a total grading quantity of 96,960 CY. There will be approximately 26,410 CY of export generated by the project. The applicant has indicated that excess material will be off-hauled and stockpiled on a separate vacant parcel within the Pacific Commons development located in the southern quadrant of the Cushing Parkway and Bunche Drive intersection. A grading and haul route permit will be needed for the export. The placement and grading of export material on the Cushing Parkway/Bunche Drive parcel is not included as part of this Preliminary Grading Plan.

Per the approved Pacific Commons Storm Drain Master Plan, stormwater runoff from the site and surrounding public streets will be directed to Alameda County Flood Control and Water Conservation District's (District) Zone 6, Line N-1 flood control channel located at the southerly limits of Pacific Commons.

**Urban Runoff Clean Water Program:** The project shall comply with the requirements contained in San Francisco Bay Regional Water Quality Control Board (RWQCB) Order No. 99-061, "Waste Discharge Requirements for the Pacific Commons Site," by incorporating stormwater treatment measures into the project design.

Per the Stormwater Management Plan for the Pacific Commons Business Park, low flows from the Pacific Commons development are diverted to a sub-regional stormwater treatment pond, approximately 15 acres in size prior to being released to the District's Zone 6, Line N-1 flood control channel. In addition, the project intends to meet the quantitative stormwater treatment requirements by constructing grassy swales within the various parking lots and installing storm drain inlet filters. In order to conform to the quantitative performance criteria of the RWQCB Order, the project may be required to incorporate additional treatment control best management practices, to treat stormwater runoff. The storm water treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to Final Map approval.

**Geologic Hazards:** The project site is within an area of potential liquefaction on the official Seismic Hazard Zone, Niles Quadrangle maps, released by the State Geologist on October 19, 2004. In accordance with the State law, the project geotechnical engineer will prepare a seismic hazard report. The report will be subject to review and approval by the City and will be filed with the State Geologist. The project improvements and building construction will conform to the recommendations of the seismic hazard report.

In order to approve the proposed project, the project must be found consistent with the General Plan and Zoning Ordinance. Accordingly, the following findings must be made to approve the Planned District Major Amendment and Vesting Tentative Tract Map 8049. These findings are recommended and enclosed as Exhibit "J".

## **PROJECT FINDINGS:**

***Planned District Major Amendment to P-2000-214:*** Under FMC Section 8-21814, a major amendment to a planned district must comply with standards in FMC Section 8-21811 for the establishment of a Planned District. In addition, the approving body must make the following findings under FMC Section 8-21813.

1. The proposed P district, or a given unit thereof, can be substantially completed within four years of the establishment of the P district;
2. Each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;

3. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and the project intensity will not generate traffic in such amounts as to overload the street network outside the P district;
4. Any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the planning commission and the city council;
5. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;
6. The P district (as amended) is in conformance with the general plan of the City of Fremont; and
7. Existing or proposed utility services are adequate for the project intensity proposed.

***Tentative Tract Map 8049 Findings:*** A tentative map may be approved if (1) it conforms to the General Plan, (2) the lots to be created conform to the Zoning Code, and (3) none of the disqualifying factors set forth in FMC 8-1418 exist. The disqualifying factors in Section 8-1418 are:

- (1) The map fails to meet or perform one or more requirements or conditions imposed by the map act or this chapter.
- (2) The proposed subdivision, together with the provisions for its design and improvement, is not consistent with applicable general and specific plans.
- (3) The site is not physically suitable for the type or proposed density of development.
- (4) The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (5) The design of the subdivision or the type or improvements is likely to cause serious public health problems.
- (6) The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the commission may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This paragraph shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the commission to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

As set forth in the General Plan conformance discussion above, staff believe the proposed project, including proposed VTTM 8049, conforms to the General Plan. The lots to be created by VTTM 8049 conform to the Zoning Code and that none of the disqualifying factors set forth in FMC Section 8-1814 are present.

**Proposed Amendment:** The applicant requests a third amendment to the 2000 Amended and Restated Development Agreement for Pacific Commons (DA). The DA affects and encompasses the entire 877-acre Pacific Commons development. The third amendment would include:

1. A five-year extension of the DA's term to expire on October 17, 2019. (Modification to Section 2.3 of DA.)
2. Modify the location of the drive-through establishments within Pacific Commons (i.e., one the new retail district of Planning Area 4; another that exists in Planning Area 3- In & Out Burgers) and increase their maximum total aggregate floor area from 5,500 square feet to 7,360 square feet. (Modifications to Exhibit G of the DA.)
3. Modify the timing and process for commencement of the Municipal Parcel Access Improvements for and within Automall Parkway. (Modifications to Exhibit I of the DA.)

**Development Agreement/City Interests:** The general intent of a development agreement is to strengthen the public planning process; encourage private participation in the comprehensive planning; and, reduce the economic costs of development. It is a tool for establishing a vested right to proceed with development in conformance with the policies, rules, and regulations in effect at the time of approval. A development agreement provides a developer with assurances for a specified length of time that his/her project may proceed as originally approved, and not be affected by future changes in land use regulations. In many cases, and in exchange for this assurance, the developer (in this case also landowner) agrees to certain City interests for public use as a condition of the agreement.

Staff finds the following City interests that would be achieved with the proposed Amendment. The Amendment would:

- Continue to encourage development within Pacific Commons, consistent City General Plan and Zoning Ordinance, which will provide substantial revenues to the City, business development opportunities, and completion of the Pacific Commons roadway network.
- Extend the term of the DA for an additional five years in light of current economic times to allow the developer additional time to obtain City and other regulatory agency approvals to complete Pacific Commons.
- Provide earlier completion of the Municipal Parcel Access Improvements at the current Automall Parkway westerly terminus prior to the occurrence of either of the following: (i) submittal of an application by Developer for the final building permit required to complete development of Planning Area 5; or (ii) close of escrow for any transaction wherein more than 25% of the applicant's property interests, existing at the time of the final execution of the proposed amendment, in Pacific Commons Planned District development area are transferred to another owner.

On this basis, staff recommends the third amendment enclosed (Exhibit "D").

**City Fees:** The project shall be subject to all citywide development impact fees except as payment of such fees has been modified by the Development Agreement. These fees may include, but are not

limited to, fees for fire protection, capital facilities, and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance. The applicant may elect to defer payment in accordance with the City's Impact Fee Deferral Program.

**ENVIRONMENTAL REVIEW:** A Supplement to the Final Environmental Impact Report (FEIR) (hereinafter "2010 Supplement") has been prepared for the proposed project, pursuant to the California Environmental Quality Act (CEQA). The report supplements the previous Pacific Commons Environmental Impact Report SCH#96052016 and its 2000 Supplemental EIR and addenda, including the 2003 Retail Amendment Addendum. The 2010 Supplement to the EIR considers a change of allowed use for 27 acres within the overall Planned Development District of Pacific Commons. The 2010 Supplement was prepared to consider and analyze developing 350,000 square feet of commercial and entertainment shopping center uses in place of the previously entitled 1.3 million square feet of industrial uses within the Pacific Commons - Catellus Planning Area 5. It should be noted, however, that the environmental effects of a more substantial project than the current proposal was analyzed, as the current proposal is reduced by almost ten percent to 321,000 square feet.

Staff prepared the 2010 Supplement to the previously certified EIR because only minor additions and/or changes have been proposed which still render the previous certified EIR adequate. The proposed changes include revised uses and development plan details within the broader context of the previously approved Planned District, lower building heights, changes to landscape and open space, and additional local street connectivity.

The prior EIR documents and project approvals identified Significant and Unavoidable impacts to transportation, geologic hazards, and regional air quality. Other impacts were mitigated to a level of less than significant. The previous mitigation monitoring program will apply to the proposed project along with additional mitigation measures identified by the 2010 Supplement related to new significant greenhouse gas and regional air quality impacts.

The 2010 Supplement is considered in conjunction with the previously certified FEIR for the Pacific Commons Planned District. The environmental impact report process is followed in accordance with CEQA and is intended to inform decision makers and the public about the potential environmental effects of changes to a previously approved project to facilitate informed decision making. The 2010 Supplement process included preparation of a draft supplemental environmental report that was available for public comment for a minimum of 45 days. The Draft 2010 Supplement for the proposed project was circulated for public review from August 12, 2010 through September 27, 2010.

Prior to acting on a proposed project, the City of Fremont acting as the Lead Agency must certify the 2010 Supplement to the previously certified FEIR as adequate. To determine adequacy of a Supplement to a certified EIR, the Lead Agency must determine the sufficiency of the information in the document, not the correctness of its conclusions. Legal adequacy of a Supplement is generally characterized by:

- All required contents are included;
- An objective, good-faith effort at full disclosure of potential environmental effects is provided;
- A reasonable treatment of issues is provided;
- Disagreement among experts is acceptable;
- Perfection is not required;

- Exhaustive treatment of issues is not required; and
- Minor technical defects are not necessarily fatal.

*Proposed Project Relationship to the 2010 Supplement to the EIR:*

A Supplement to the certified EIR for Pacific Commons was prepared to consider and analyze the environmental effects of a more substantial project than the current proposal. The project as analyzed in the 2010 Supplement includes development of a 350,000 square-foot commercial retail center, rather than the reduced 321,000 square-foot shopping center actually proposed. Because the 2010 Supplement analyzed a project of almost ten percent larger in size, the 2010 Supplement provides a more conservative analysis of the potential project effects.

*Significant Effects and Mitigation:*

The 2010 Supplement identified two additional impacts on regional air quality and greenhouse gas emissions. The 2010 Supplement includes a comprehensive analysis of these two topics for which potential impacts were identified. The 2010 Supplement also includes recommended mitigation measures that would reduce the identified impacts; however, with implementation of the mitigation measures, the identified impacts would remain significant and unavoidable. Recommended project mitigation measures are included in the 2010 Addendum to the Pacific Commons Mitigation Monitoring and Reporting Program (2010 Addendum to the Pacific Commons MMRP-Exhibit “B”).

*Significant and Unavoidable Impacts:*

**IMPACT AQ1: Regional Air Quality Emissions:** The Planning Area 5 emissions compared to the original 2000 Supplemental EIR for Planning Area 5 (at 1.3 million square feet of industrial use) emissions are substantially the same overall with slightly worse performance for reactive organic gas (ROG) and Particulate Matter (PM) and substantially better performance in regards to nitrogen oxide (NOx). However, the impact on regional air quality would remain significant and unavoidable as was previously identified in the 2000 Supplemental EIR. The combination of proposed project with other regional emission in the Bay Area will continue to contribute to the formation of ozone and the project continues to exceed the BAAQMD threshold for project significance of 54 lbs a day.

**IMPACT CC1: Greenhouse Gas (GHG) Emissions:** The Planning Area 5 project emissions are a net increase of approximately 15,000 metric tons of equivalent carbon dioxide (CO<sub>2</sub>e) or 0.8% of the Fremont community emissions. The emissions would be less than the previously approved industrial development, but such emissions were not analyzed in the 2000 EIR. The project has no measurable individual effect on the trends of climate change. However, the 15,000 tons of emissions are considerable in light of the magnitude of the project type, size, and scale when combined cumulatively with emissions produced throughout the state. As a result, the project emissions cumulatively are substantial and result in a potentially significant impact of contributing to climate change impacts.

*Statement of Overriding Considerations:*

CEQA requires public agencies to balance the benefits of a project against its significant environmental effects when determining whether or not to approve it. CEQA defines benefits as economic, legal, social, technological, or other. If a project’s benefits outweigh its unavoidable adverse environmental effects, the adverse effects may be considered “acceptable.”

Because no feasible mitigation would lessen the identified regional air quality and greenhouse gas emissions to a less-than-significant level, the approving body must consider whether, on balance, the benefits of the project (i.e., increased retail opportunities of a 321,000 square foot regional shopping center; additional employment opportunities; increased tax revenues (from retail sales) as compared to a typical industrial user; and earlier completion of the extended roadway network system within Pacific Commons outweigh the regional air quality and greenhouse gas impacts if it desires to approve the project. The additional retail opportunities provided by the project meet the desires of the General Plan to take advantage of opportunity sites near freeways, fill sales tax leakage gaps and achieve overall City retail strategies, and expand general fund revenue through sales tax revenue. Staff and the Planning Commission recommend that the City Council find overriding considerations consistent with this rationale.

**FISCAL IMPACT:** Not applicable.

**PUBLIC NOTICE AND COMMENT:** Public hearing notification is applicable. Notices were mailed to owners and occupants of property within 300 feet of the site.

The Draft 2010 Supplement 45-day public comment period commenced on August 12, 2010, and concluded on September 27, 2010. Only one outside agency (Caltrans) provided comments on the Draft 2010 Supplement. The Final 2010 Supplement includes responses to comments made on the Draft 2010 Supplement. The Draft Final 2010 Supplement was made available to the public and Draft Supplement commenter on October 6, 2010.

**October 14, 2010 Planning Commission Hearing:** The Planning Commission voted 4-0 in support of the proposed project. One commissioner had to recuse himself from the proceeding and two other commissioners were absent from the hearing. Draft minutes are included as Informational 5. The Planning Commission supported the staff recommendation and included two additional recommendations for the City Council to consider as part of the project.

The first issue focused on the need and desirability of implementing the TDM requirements in conjunction with the completion of the development of Planning Area 5 rather than trigger its implementation at the time of development of office employment uses. In a related matter, the Planning Commission also recommended building the transit hub within Planning Area 5 without deferring it to a later date or location. The commission has an interest in implementing a TDM that could be a benefit and attraction to developing the remainder of Pacific Commons and not lose an opportunity for improvements.

The current TDM requirements focus on reduction of Peak Hour trips and supporting intense employment uses. Staff does not recommend triggering TDM measures for the Pacific Commons retail area as there are minimal peak hour employment trips generated by the uses that would most directly benefit from shuttle service to and from BART and VTA transfer points. AC Transit provides bus service to the area and has multiple stops in and around Pacific Commons to meet the daily needs of visitors to the area. A concentrated on-site transit hub facility designed for 6-9 vehicles would require approximately 0.5 acres of area. Alternatively, shuttles and buses could stage along public streets where space is available without having a specific transit hub. However, due to the proximity of likely employment uses further to the south and absence of strong mass transit draws near Planning Area 5, it

does not appear necessary to create a concentrated facility at this time. The idea of a shuttle service transit hub would best be implemented in the long term near employment uses to facilitate the ease of their use and not as a use that was part of the shopping center.

The second issue focused on the desirability and creation of sense of place for visitors to Planning Area 5 and overall for Pacific Commons. The Planning Commission asked for the project to include elements that would attract visitors to the area and provide a space for people to congregate or assemble for a performance or activity. Specifically, the Planning Commission recommended that the applicant consider incorporating a play structure and define a public space or plaza type amenity near Pacific Commons Boulevard that allowed for programming of events or for people to leisurely spend time beyond just shopping. A current recommended condition of approval (Condition 58) encourages including amenities for the public. The applicant indicates a willingness to work on incorporating features that benefit the public into the final site plan.

#### **ENCLOSURES:**

- [Exhibit “A” - 2010 Supplement to the certified FEIR for the Pacific Commons development](#)
- [Exhibit “B” - Mitigation Monitoring & Reporting Program](#)
- [Exhibit “C” – Draft Ordinance amending Planned District P-2000-214](#)
  - [Standards and Guidelines](#)
- [Exhibit “D” - Ordinance adopting a third amendment to the 2000 Amended and Restated Development Agreement for Pacific Commons](#)
- [Exhibit “E” - Conceptual Site Plan for Pacific Commons Planning Area 5](#)
- [Exhibit “F” - Vesting Tentative Tract Map 8049](#)
- [Exhibit “G” - Preliminary Grading Plan](#)
- [Exhibit “H” - Project Findings and Conditions of Approval](#)
- [Exhibit “T” - Resolution certifying the Supplement to the FEIR for the Pacific Commons development, making findings, adopting a mitigation and monitoring reporting program, and making statements of overriding consideration](#)
- [Informational 1 - Applicant’s Planned District Major Amendment Justification Letter](#)
- [Informational 2 - Project Parking Study](#)
- [Informational 3 - Concept Rendering of Christy/Curie Street Gateway](#)
- [Informational 4 - 2000 Amended and Restated Development Agreement for Pacific Commons](#)
- [Informational 5 - October 2010 Planning Commission Draft Minutes](#)

#### **RECOMMENDATION:**

1. Hold public hearing.
2. Adopt a resolution to:
  - a) Certify the 2010 Supplement to the Final Environmental Impact Report for Pacific Commons as having been prepared in compliance with the requirements of CEQA and find that it reflects the independent judgment of the City, and
  - b) Find that changes to the project have been incorporated to avoid and lessen the significant effects of the project and additional changes or alternatives to the project are not feasible, and adopt the Mitigation Monitoring and Reporting Program identified as “Exhibit “B”, and
  - c) Find that project’s economic and social benefits outweigh its potentially significant environmental impacts.



3. Find that the proposed project is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
4. Waive full reading and introduce an Ordinance approving the Planned District Major Amendment as shown in Exhibit "C" (2010 Revised Supplement B, Pacific Commons Master Plan), based on findings and subject to conditions in Exhibit "H."
5. Approve the Concept Site Plan for Pacific Commons Planning Area 5 as shown in Exhibit "E", based on findings and conditions in Exhibit "H."
6. Find that the proposed subdivision as shown in Exhibit "F", Vesting Tentative Tract Map 8049, is consistent with the goals, policies and objectives of the City of Fremont's General Plan and allow the subdivision subject to conditions set forth in Exhibit "H". Government Code Section 66474 provides that a tentative map application must be denied if certain specified findings are made. None of those findings can be made in this instance as set forth in Exhibit "H".
7. Approve the Preliminary Grading Plan as shown in Exhibit "G", based on findings and conditions in Exhibit "H."
8. Find the Amendment to the Pacific Commons Development Agreement is in compliance with the applicable requirements as set forth in the Fremont Municipal Code. Waive full reading and introduce an Ordinance for a Third Amendment to the Development Agreement substantially set forth in Exhibit "D" for that purpose of a) extending the term of the Agreement for five years to October 17, 2019; b), modifying the location and aggregate size of two drive-through establishment for Pacific Commons; and, c), modifying the timing and process for commencement of the Municipal Parcel Access Improvements for and within Automall Parkway, as specified in the Third Amendment.

## **6.1 Report Out from Closed Session of Any Final Action**

**7.1 CONSIDER ADOPTION OF TWO RESOLUTIONS TO MAKING THE CITY OF FREMONT A “LET’S MOVE! CITY” AND A “HEALTHY EATING ACTIVE LIVING (HEAL)” CITY**

**Consider 1) Adopting a Resolution to Make the City of Fremont a Let’s Move! City and 2) Adopting a Resolution to Make the City of Fremont a Healthy Eating Active Living (HEAL) City**

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**Executive Summary:** In February, First Lady Michelle Obama launched the Let's Move! campaign to solve the childhood obesity epidemic within a generation. First Lady Obama is expanding the effort to include a call to action for mayors and other elected officials to join her Let's Move! Campaign ("Let's Move! Cities and Towns ") in an effort to leverage cities and communities unique ability to solve obesity locally and adopt long-term, sustainable, regional approaches to fight childhood obesity.

The Healthy Eating Active Living Cities (HEAL) Campaign is a partnership of the League of California Cities, the California Center for Public Health Advocacy, and the Cities, Counties and School Partnership. The Campaign works with California cities to adopt policies that will improve the physical activity and food environments for all residents.

In responses to the City Council referral on October 12<sup>th</sup>, staff have written two resolutions for the City Council to consider in order to make Fremont a Let’s Move! City and a HEAL City.

**BACKGROUND:**

In February, First Lady Michelle Obama launched the Let's Move! campaign to solve the childhood obesity epidemic within a generation. First Lady Obama is expanding the effort to include a call to action for mayors and other elected officials to join her Let's Move! Campaign ("Let's Move! Cities and Towns ") in an effort to leverage cities and communities unique ability to solve obesity locally and adopt long-term, sustainable, regional approaches to fight childhood obesity.

On February 2, 2010, President Barack Obama established the Task Force on Childhood Obesity. The Task Force developed an interagency plan after incorporating input from more than 2,500 public comments in 90 days. The plan details a coordinated strategy, identifies key benchmarks, and outlines an action plan to end the problem of childhood obesity within a generation.

**DISCUSSION/ANALYSIS:**

**LET’S MOVE INITIATIVE**

Let’s Move! Cities and Towns is designed to encourage mayors and elected officials to adopt a long-term, sustainable, and holistic approach to fight childhood obesity. This initiative recognizes that every city is different, and every town will require a distinct approach to the issue. Once a city signs up as a

prospective Let's Move! City or a Let's Move! Town, it is encouraged to highlight programs in at least one of the four pillar areas: 1) **Helping Parents Make Healthy Family Choices**; 2) **Improving the Health of Schools**; 3) **Increasing Physical Activity Opportunities**; and 4) **Making Healthy Food Affordable and Accessible**.

#### HEALTHY EATING ACTIVE LIVING (HEAL) CITIES CAMPAIGN

The HEAL Cities Campaign is promoting a menu of policy options that city leaders can adopt to improve their cities' nutrition and physical activity environments.

- **Land Use** – Using cities' planning, zoning, and infrastructure investment to have a positive effect on health.
- **Healthy Foods** – Encouraging the use of planning, economic development, and public relations tools for attracting and supporting healthy food retailers.
- **Employee Wellness** – Exploring ways to reduce the burden of worker healthcare costs by helping workers overcome obesity.

**FISCAL IMPACT:** The Let's Move! and Healthy Eating Active Living City campaigns are awareness campaigns with no fiscal impact for the City and can be incorporated into existing & new programs.

**ENVIRONMENTAL REVIEW:** There is no project or other action related to this staff report that triggers provisions of the California Environmental Quality Act (CEQA). Therefore, no CEQA determination is required.

#### **ENCLOSURES:**

- [Let's Move Fact Sheet](#)
- [Let's Move Resolution](#)
- [Healthy Eating Active Living Fact Sheet](#)
- [Healthy Eating Active Living Resolution](#)

#### **RECOMMENDATION:**

1. Adopt a Resolution to Make the City of Fremont a Let's Move! City.
2. Adopt a Resolution to Make the City of Fremont a HEAL City.

## 8.1 Council Referrals

### 8.1.1 MAYOR WASSERMAN REFERRAL: Reappointment to the Alameda County Mosquito Abatement District:

**Appointments:**

<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
Alameda County Mosquito Abatement District	John Hughes	January 1, 2013

**ENCLOSURES:** None

## 8.2 Oral Reports on Meetings and Events



## ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD .....	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS .....	Geographic Information System
ACE .....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD .....	Alameda County Flood Control District	HARB .....	Historical Architectural Review Board
ACTA .....	Alameda County Transportation Authority	HBA .....	Home Builders Association
ACTIA .....	Alameda County Transportation Improvement Authority	HRC .....	Human Relations Commission
ACWD .....	Alameda County Water District	ICMA .....	International City/County Management Association
BAAQMD .....	Bay Area Air Quality Management District	JPA .....	Joint Powers Authority
BART .....	Bay Area Rapid Transit District	LLMD .....	Lighting and Landscaping Maintenance District
BCDC .....	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs .....	Best Management Practices	LOS .....	Level of Service
BMR .....	Below Market Rate	MOU .....	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD .....	Central Business District	NEPA .....	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's .....	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG .....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA .....	California Environmental Quality Act	PC.....	Planning Commission
CERT .....	Community Emergency Response Team	PD .....	Planned District
CIP .....	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA .....	Congestion Management Agency	PVAW .....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF .....	City of Fremont	RDA .....	Redevelopment Agency
COPPS .....	Community Oriented Policing and Public Safety	RFP .....	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC .....	California Transportation Commission	RHNA .....	Regional Housing Needs Allocation
dB .....	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO .....	Development Organization	RWQCB .....	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET .....	Southern Alameda County Narcotics Enforcement Task Force
EBRPD .....	East Bay Regional Park District	SPAA .....	Site Plan and Architectural Approval
EDAC .....	Economic Development Advisory Commission (City)	STIP .....	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS .....	Environmental Impact Statement (NEPA)	T&O .....	Transportation and Operations Department
ERAF .....	Education Revenue Augmentation Fund	TOD .....	Transit Oriented Development
EVAW .....	Emergency Vehicle Accessway	TS/MRF .....	Transfer Station/Materials Recovery Facility
FAR .....	Floor Area Ratio	UBC .....	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa .....	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA .....	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27  
BROADCAST SCHEDULE**

<b><i>Date</i></b>	<b><i>Time</i></b>	<b><i>Meeting Type</i></b>	<b><i>Location</i></b>	<b><i>Cable Channel 27</i></b>
November 9, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 16, 2010	6:00 p.m.	Work Session	Council Chambers	Live
November 23, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 30, 2010 (5 <sup>th</sup> Tuesday)		No City Council Meeting		
December 7, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
December 14, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
December 15, 2010 – January 3, 2011		Council Recess		
January 4, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
January 11, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
January 18, 2011	TBD	Work Session	Council Chambers	Live
January 25, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 1, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 15, 2011	TBD	Work Session	Council Chambers	Live
February 22, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 1, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 15, 2011	TBD	Work Session	Council Chambers	Live
March 22, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live